

## APPENDIX

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**NH RSA 630:1 & 5****630:1 Capital Murder. –**

I. A person is guilty of capital murder if he knowingly causes the death of:

(a) A law enforcement officer or a judicial officer acting in the line of duty or when the death is caused as a consequence of or in retaliation for such person's actions in the line of duty;

(b) Another before, after, while engaged in the commission of, or while attempting to commit kidnapping as that offense is defined in RSA 633:1;

(c) Another by criminally soliciting a person to cause said death or after having been criminally solicited by another for his personal pecuniary gain;

(d) Another after being sentenced to life imprisonment without parole pursuant to RSA 630:1-a, III;

(e) Another before, after, while engaged in the commission of, or while attempting to commit aggravated felonious sexual assault as defined in RSA 632-A:2;



(f) Another before, after, while engaged in the commission of, or while attempting to commit an offense punishable under RSA 318-B:26, I(a) or (b).

II. As used in this section, a "law enforcement officer" is a sheriff or deputy sheriff of any county, a state police officer, a constable or police officer of any city or town, an official or employee of any prison, jail or corrections institution, a probation-parole officer, or a conservation officer.

II-a. As used in this section, a "judicial officer" is a judge of a district, probate, superior or supreme court; an attorney employed by the department of justice or a municipal prosecutor's office; or a county attorney; or attorney employed by the county attorney.

III. A person convicted of a capital murder may be punished by death.

IV. As used in this section and RSA 630:1-a, 1-b, 2, 3 and 4, the meaning of "another" does not include a fetus.

V. In no event shall any person under the age of 18 years at the time the offense was committed be culpable of a capital murder.

#### **630:5 Procedure in Capital Murder. –**

I. Whenever the state intends to seek the sentence of death for the offense of capital murder, the attorney for the state, before trial or acceptance by the court of a plea of guilty, shall file with the court and serve upon the defendant, a notice:

(a) That the state in the event of conviction will seek the sentence of death; and

(b) Setting forth the aggravating factors enumerated in paragraph VII of this section and any other aggravating factors which the state will seek to prove as the basis for the death penalty.



The court may permit the attorney for the state to amend this notice for good cause shown. Any such amended notice shall be served upon the defendant as provided in this section.

II. When the attorney for the state has filed a notice as required under paragraph I and the defendant is found guilty of or pleads guilty to the offense of capital murder, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted:

(a) Before the jury which determined the defendant's guilt;

(b) Before a jury impaneled for the purpose of the hearing if:

(1) the defendant was convicted upon a plea of guilty; or

(2) the jury which determined the defendant's guilt has been discharged for good cause; or

(3) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary.

A jury impaneled under subparagraph (b) shall consist of 12 members, unless at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

III. When a defendant is found guilty of or pleads guilty to the offense of capital murder, no presentence report shall be prepared. In the sentencing hearing, information may be presented as to matters relating to any of the aggravating or mitigating factors set forth in paragraphs VI and VII, or any other mitigating factor or any other aggravating factor for which notice has been provided under subparagraph I(b). Where information is presented relating to any of the



aggravating factors set forth in paragraph VII, information may be presented relating to any other aggravating factor for which notice has been provided under subparagraph I(b).

Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the trial judge's discretion. Any other information relevant to such mitigating or aggravating factors may be presented by either the state or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.

The state and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The state shall open and the defendant shall conclude the argument to the jury. The burden of establishing the existence of any aggravating factor is on the state, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

IV. The jury shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in paragraph VII, which are found to exist. If one of the aggravating factors set forth in subparagraph VII(a) and another of the aggravating factors set forth in subparagraphs VII(b)-(j) is found to exist, a special finding identifying any other aggravating factor for which notice has been provided under subparagraph I(b) may be returned. A finding with respect to a mitigating factor may be made by one or more



of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this section, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subparagraph VII(a) is not found to exist or an aggravating factor set forth in subparagraph VII(a) is found to exist but no other aggravating factor set forth in paragraph VII is found to exist, the court shall impose a sentence of life imprisonment without possibility of parole. If an aggravating factor set forth in subparagraph VII(a) and one or more of the aggravating factors set forth in subparagraph VII (b)-(j) are found to exist, the jury shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, if the jury concludes that the aggravating factors outweigh the mitigating factors or that the aggravating factors, in the absence of any mitigating factors, are themselves sufficient to justify a death sentence, the jury, by unanimous vote only, may recommend that a sentence of death be imposed rather than a sentence of life imprisonment without possibility of parole. The jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall be so instructed.

V. Upon the recommendation that the sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment without possibility of parole.

VI. In determining whether a sentence of death is to be imposed upon a defendant, the jury



shall consider mitigating factors, including the following:

(a) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

(b) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

(c) The defendant is punishable as an accomplice (as defined in RSA 626:8) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

(d) The defendant was youthful, although not under the age of 18.

(e) The defendant did not have a significant prior criminal record.

(f) The defendant committed the offense under severe mental or emotional disturbance.

(g) Another defendant or defendants, equally culpable in the crime, will not be punished by death.

(h) The victim consented to the criminal conduct that resulted in the victim's death.

(i) Other factors in the defendant's background or character mitigate against imposition of the death sentence.

VII. If the defendant is found guilty of or pleads guilty to the offense of capital murder, the following aggravating factors are the only aggravating factors that shall be considered, unless notice of additional aggravating factors is provided under subparagraph I(b):

(a) The defendant:

(1) purposely killed the victim;



(2) purposely inflicted serious bodily injury which resulted in the death of the victim;

(3) purposely engaged in conduct which:

(A) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

(B) resulted in the death of the victim.

(b) The defendant has been convicted of another state or federal offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by law.

(c) The defendant has previously been convicted of 2 or more state or federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

(d) The defendant has previously been convicted of 2 or more state or federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

(e) In the commission of the offense of capital murder, the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

(f) The defendant committed the offense after substantial planning and premeditation.

(g) The victim was particularly vulnerable due to old age, youth, or infirmity.

(h) The defendant committed the offense in an especially heinous, cruel or depraved manner in that it involved torture or serious physical abuse to the victim.

(i) The murder was committed for pecuniary gain.

(j) The murder was committed for the purpose of avoiding or preventing a lawful arrest or



effecting an escape from lawful custody.

VIII. If a person is convicted of the offense of capital murder and the court does not impose the penalty of death, the court shall impose a sentence of life imprisonment without possibility of parole.

IX. If the jury cannot agree on the punishment within a reasonable time, the judge shall impose the sentence of life imprisonment without possibility of parole. If the case is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment.

X. In all cases of capital murder where the death penalty is imposed, the judgment of conviction and the sentence of death shall be subject to automatic review by the supreme court within 60 days after certification by the sentencing court of the entire record unless time is extended for an additional period not to exceed 30 days by the supreme court for good cause shown. Such review by the supreme court shall have priority over all other cases and shall be heard in accordance with rules adopted by said court.

XI. With regard to the sentence the supreme court shall determine:

(a) Whether the sentence of death was imposed under the influence of passion, prejudice or any other arbitrary factor; and

(b) Whether the evidence supports the jury's finding of an aggravating circumstance, as authorized by law; and

(c) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

XII. In addition to its authority regarding correction of errors, the court, with regard to review



of death sentences, shall be authorized to:

- (a) Affirm the sentence of death; or
- (b) Set the sentence aside and remand the case for resentencing.

XIII. When the penalty of death is imposed, the sentence shall be that the defendant be imprisoned in the state prison at Concord until the day appointed for his execution, which shall not be within one year from the day sentence is passed. The punishment of death shall be inflicted by continuous, intravenous administration of a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent until death is pronounced by a licensed physician according to accepted standards of medical practice.

XIV. The commissioner of corrections or his designee shall determine the substance or substances to be used and the procedures to be used in any execution, provided, however, that if for any reason the commissioner finds it to be impractical to carry out the punishment of death by administration of the required lethal substance or substances, the sentence of death may be carried out by hanging under the provisions of law for the death penalty by hanging in effect on December 31, 1986.

XV. An execution carried out by lethal injection shall be performed by a person selected by the commissioner of the department of corrections and trained to administer the injection. The person administering the injection need not be a physician, registered nurse, or licensed practical nurse, licensed or registered under the laws of this or any other state.

XVI. The infliction of the punishment of death by administration of the required lethal substance or substances in the manner required by this section shall not be construed to be the practice of medicine, and any pharmacist or pharmaceutical supplier is authorized to dispense



drugs to the commissioner of corrections or his designee, without prescription, for carrying out the provisions of this section, notwithstanding any other provision of law.

XVII. The governor and council or their designee shall determine the time of performing such execution and shall be responsible for providing facilities for the implementation thereof. In no event shall a sentence of death be carried out upon a pregnant woman or a person for an offense committed while a minor.

**RSA 636:1, I(b)**

**636:1 Robbery. –**

I. A person commits the offense of robbery if, in the course of committing a theft, he:

- (a) Uses physical force on the person of another and such person is aware of such force; or
- (b) Threatens another with or purposely puts him in fear of immediate use of physical force.

II. An act shall be deemed ""in the course of committing a theft" if it occurs in an attempt to commit theft, in an effort to retain the stolen property immediately after its taking, or in immediate flight after the attempt or commission.

III. Robbery is a class B felony, except that if the defendant:

- (a) Was actually armed with a deadly weapon; or
- (b) Reasonably appeared to the victim to be armed with a deadly weapon; or
- (c) Inflicted or attempted to inflict death or serious injury on the person of another,

the offense is a class A felony, except that if the defendant was actually armed with a deadly weapon, and the deadly weapon was a firearm, he shall be sentenced in accordance with RSA 651:2, II-g.



**RSA 629:3**

**629:3 Conspiracy. –**

I. A person is guilty of conspiracy if, with a purpose that a crime defined by statute be committed, he agrees with one or more persons to commit or cause the commission of such crime, and an overt act is committed by one of the conspirators in furtherance of the conspiracy.

II. For purposes of paragraph I, ""one or more persons" includes, but is not limited to, persons who are immune from criminal liability by virtue of irresponsibility, incapacity or exemption.

III. It is an affirmative defense to prosecution under this statute that the actor renounces his criminal purpose by giving timely notice to a law enforcement official of the conspiracy and of the actor's part in it, or by conduct designed to prevent commission of the crime agreed upon.

IV. The penalty for conspiracy is the same as that authorized for the crime that was the object of the conspiracy, except that in the case of a conspiracy to commit murder the punishment shall be imprisonment for a term of not more than 30 years.

**RSA 159:3, I**

**159:3 Convicted Felons. –**

I. A person is guilty of a class B felony if he:

(a) Owns or has in his possession or under his control, a pistol, revolver, or other firearm, or slungshot, metallic knuckles, billies, stiletto, switchblade knife, sword cane, pistol cane, blackjack, dagger, dirk-knife, or other deadly weapon as defined in RSA 625:11, V; and

(b) Has been convicted in either a state or federal court in this or any other state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United



States of:

(1) A felony against the person or property of another; or

(2) A felony under RSA 318-B; or

(3) A felony violation of the laws of any other state, the District of Columbia, the United States, the Commonwealth of Puerto Rico or any territory or possession of the United States relating to controlled drugs as defined in RSA 318-B.

I-a. A person is guilty of a class B felony if such person completes and signs an application for purchase of a firearm and the person is a convicted felon under the provisions of paragraph I.

II. The state shall confiscate to the use of the state the weapon or weapons of persons convicted under this section.

III. It is an affirmative defense to a charge under this section that a felony of which a defendant has been convicted in another jurisdiction would not have constituted a felony in the state of New Hampshire at the time such felony was committed.

**N.H. Const. pt. I, arts. 15, 18, 33**

**[Art.] 15. [Right of Accused.]** No subject shall be held to answer for any crime, or offense, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. Every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defense, by himself, and counsel. No subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law



of the land; provided that, in any proceeding to commit a person acquitted of a criminal charge by reason of insanity, due process shall require that clear and convincing evidence that the person is potentially dangerous to himself or to others and that the person suffers from a mental disorder must be established. Every person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown; this right he is at liberty to waive, but only after the matter has been thoroughly explained by the court.

**[Art.] 18. [Penalties to be Proportioned to Offenses; True Design of Punishment.]** All penalties ought to be proportioned to the nature of the offense. No wise legislature will affix the same punishment to the crimes of theft, forgery , and the like, which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offenses, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offenses. For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate mankind.

**[Art.] 33. [Excessive Bail, Fines, and Punishments Prohibited.]** No magistrate, or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.



**U.S. Const. Ams. V, VI, VIII, XIV.**

**Amendment V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**Amendment VI**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

**Amendment VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Amendment XIV.**

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



RULES OF SUPREME COURT OF LOUISIANA  
APPENDIX "B"

UNIFORM CAPITAL SENTENCE REPORT

(to be completed by Trial Judge)

A. DATA CONCERNING DEFENDANT

1. Name: \_\_\_\_\_

2. Date of Birth: \_\_\_\_\_

3. Race: \_\_\_\_\_

4. Sex: M ( ) F ( )

5. Marital Status: Never Married

( ) Married ( ) Date \_\_\_\_\_

Divorced ( ) Date \_\_\_\_\_

Spouse Deceased ( ) Date \_\_\_\_\_

6. Children

(a) Number of children \_\_\_\_\_

(b) Ages of children \_\_\_\_\_

(c) Was he contributing to the support of any of these children at the time of the offense  
\_\_\_\_\_

7. Other Dependents

(a) Number \_\_\_\_\_ (b) Relationship \_\_\_\_\_ (c) Ages \_\_\_\_\_

8. Father living: Yes ( ) No ( ) If deceased, give date of death  
\_\_\_\_\_

9. Mother living: Yes ( ) No ( ) If deceased, give date of death  
\_\_\_\_\_

10. Number of children born to parents \_\_\_\_\_

11. Education \_\_\_\_\_ Highest Grade Completed \_\_\_\_\_

12. Intelligence Level:

(IQ below 70) Low ( )

(IQ 70 to 100) Medium ( )

(IQ above 100) High ( )

13. Psychiatric Evaluation Performed? Yes ( ) No ( )

If performed, is defendant:

(a) Able to distinguish right from wrong? Yes ( ) No ( )

(b) Able to adhere to the right? Yes ( ) No ( )

(c) Able to cooperate intelligently in his own defense? Yes ( ) No ( )

14. If examined, were character or behavior disorders found? Yes ( ) No ( )

(If answer is yes, please elaborate) \_\_\_\_\_

15. What other pertinent psychiatric (psychological) information was revealed?  
\_\_\_\_\_  
\_\_\_\_\_

16. Does the defendant's physical or mental condition call for special consideration?

Yes ( ) No ( )

17. Prior Work Record of Defendant: \_\_\_\_\_



Type Job Dates Held Reason for Termination

- (a) \_\_\_\_\_  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_  
(d) \_\_\_\_\_  
(e) \_\_\_\_\_

18. Does the defendant have a record of prior convictions? Yes ( ) No ( )

19. If answer is yes, list offenses, the dates of the offenses and the sentences imposed:

Offense Date of Offense Sentence Imposed

- (a) \_\_\_\_\_  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_  
(d) \_\_\_\_\_

20. Was there evidence that the defendant was under the influence of narcotics or dangerous drugs at the time of the offense?

Yes ( ) No ( )

21. Was the defendant a local resident or a transient in the community?

Resident ( )

Transient ( )

#### B. DATA CONCERNING OFFENSE

1. Were other offenses tried in same trial? Yes ( ) No ( )

If yes, list the other offenses:

2. Which of the following statutory aggravating circumstances were specifically argued, which were found?

Argued Found

- a. The offender was engaged in the perpetration or attempted perpetration of aggravated rape, aggravated kidnapping, aggravated burglary, or armed robbery; \_\_\_\_\_  
b. The victim was a fireman or peace officer engaged in his lawful duties; \_\_\_\_\_  
c. The offender was previously convicted of an unrelated murder, aggravated rape, or aggravated kidnapping; \_\_\_\_\_  
d. The offender knowingly created a risk of death or great bodily harm to more than one person; \_\_\_\_\_  
e. The offender offered or has been offered or has given or received anything of value for the commission of the offense; \_\_\_\_\_  
f. The offender at the time of the commission of the offense was imprisoned after sentence for the commission of an unrelated forcible felony; \_\_\_\_\_  
g. The offense was committed in an especially heinous, atrocious or cruel manner.

3. Which of the following mitigating circumstances were argued?

- a. The offender has no significant prior history of criminal activity; \_\_\_\_\_  
b. The offense was committed while the offender was under the influence of extreme mental or emotional disturbance; \_\_\_\_\_  
c. The offense was committed while the offender was under the influence or under the domination of another person; \_\_\_\_\_  
d. The offense was committed under circumstances which the offender reasonably believed to provide a moral justification or extenuation for his conduct; \_\_\_\_\_



e. At the time of the offense the capacity of the offender to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication; \_\_\_\_\_

f. The youth of the offender at the time of the offense; \_\_\_\_\_

g. The offender was a principal whose participation was relatively minor. \_\_\_\_\_

4. What was the age of the victim? \_\_\_\_\_

5. What was the race of the victim? \_\_\_\_\_

6. Was the victim physically harmed or tortured prior to the murder?

Yes ( ) No ( )

If yes, state nature of harm or torture, as reflected by the record.

---

7. Was the victim related by blood or marriage to defendant? Yes ( ) No ( )

8. If answer is yes, what was the relationship? \_\_\_\_\_

---

9. Was the victim an employer or employee of defendant?

No ( ) Employer ( ) Employee ( )

10. Was the victim acquainted with the defendant?

No ( ) Casual Acquaintance ( ) Friend ( )

11. Was the victim a local resident or transient in the community?

Resident ( ) Transient ( )

12. Was the victim the same sex as the defendant? Yes ( ) No ( )

13. Was the victim held hostage during the crime?

No ( ) Yes-Less than an hour ( ) Yes-More than an hour ( )

14. Was the victim's reputation in the community:

Good ( ) Bad ( ) Unknown ( )

15. If a weapon was used in commission of the crime, what was it? \_\_\_\_\_

---

16. Although the evidence suffices to sustain the verdict, does it foreclose all doubt respecting the defendant's guilt? Yes ( ) No ( )

#### C. REPRESENTATION OF DEFENDANT

1. Date counsel secured \_\_\_\_\_

2. How was counsel secured?

a. Retained by defendant ( )

b. Appointed by Court ( )

3. If counsel was appointed by court, was it because

a. Defendant unable to afford counsel? ( )

b. Defendant refused to secure counsel? ( )

c. Other (explain) \_\_\_\_\_

---

4. How many years has counsel practiced law?

a. 0 to 5 ( )

b. 5 to 10 ( )

c. over 10 ( )

5. What is the nature of counsel's practice:



- a. Mostly civil ( )
- b. General ( )
- c. Mostly criminal ( )
- 6. Did the same counsel serve throughout the trial? Yes ( ) No ( )
- 7. If not, explain in detail. \_\_\_\_\_

\_\_\_\_\_  
(If more than one counsel served, answer the above questions as to each counsel and attach to this report.)

D. GENERAL CONSIDERATIONS (Please answer on separate sheet and attach to this report.)

- 1. Are there any relevant mitigating or aggravating circumstances other than those above indicated? Specify.
- 2. Was race raised by the defense as an issue in the trial?
- 3. Were members of defendant's race represented on the jury?
- 4. If not, was there any evidence they were systematically excluded from the jury?  
If yes, explain. (reference may be made to the evidence or arguments of counsel)
- 5. Was there extensive publicity in the community concerning this case?  
If yes, explain. (reference may be made to the evidence or arguments of counsel)
- 6. Was there any indication that the jury was influenced by passion, prejudice, or any other arbitrary factor when imposing sentence? If yes, what was it? (reference may be made to the evidence or arguments of counsel)
- 7. Is this sentence disproportionate to the punishment imposed in similar cases? Explain.  
(Compare the sentence of this defendant and the aggravating and/or mitigating factors to the sentences of other convicted offenders with similar aggravating and/or mitigating factors of which you have knowledge.)
- 8. General comments of the trial judge concerning the appropriateness of the sentence imposed in  
this case. (optional)

E. SENTENCE INVESTIGATION REPORT

A sentence investigation report is attached.

F. OPPOSITION TO THIS REPORT

This report was submitted to the defense counsel and the district attorney for written opposition to its factual accuracy.

- 1. No opposition was filed ( )
- 2. Opposition(s) attached ( )
- 3. Opposition(s) and transcript of opposition hearing filed ( )

Thus submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
District Judge



## Maryland

### MARYLAND RULES. TITLE 4. CRIMINAL CAUSES. CHAPTER 300. TRIAL AND SENTENCING

Rule 4-343. Sentencing -- Procedure in capital cases.

(a) Applicability. This Rule applies whenever a sentence of death is sought under Code, Criminal Law Article, § 2-303.

#### Md. Rule 4-343

(j) Advice of the judge. At the time of imposing a sentence of death, the judge shall advise the defendant that the determination of guilt and the sentence will be reviewed automatically by the Court of Appeals, and that the sentence will be stayed pending that review. At the time of imposing a sentence of imprisonment for life, the court shall cause the defendant to be advised in accordance with Rule 4-342 (i).

(k) Report of judge. After sentence is imposed, the judge promptly shall prepare and send to the parties a report in the following form:

(CAPTION)

#### REPORT OF TRIAL JUDGE

##### I. Data Concerning Defendant

A. Date of Birth

B. Sex

C. Race

D. Address

E. Length of Time in Community

F. Reputation in Community

G. Family Situation and Background

1. Situation at time of offense (describe defendant's living situation including marital status and number and age of children)

2. Family history (describe family history including pertinent data about parents and siblings).

H. Education



I. Work Record

J. Prior Criminal Record and Institutional History (list any prior convictions, disposition, and periods of incarceration)

K. Military History

L. Pertinent Physical or Mental Characteristics or History

M. Other Significant Data About Defendant

II. Data Concerning Offense

A. Briefly describe facts of offense (include time, place, and manner of death; weapon, if any; other participants and nature of participation)

B. Was there any evidence that the defendant was impaired by alcohol or drugs at the time of the offense? If so describe.

C. Did the defendant know the victim prior to the offense?

Yes ..... No .....

1. If so, describe relationship.

2. Did the prior relationship in any way precipitate the offense? If so, explain.

D. Did the victim's behavior in any way provoke the offense? If so, explain.

E. Data Concerning Victim

1. Name

2. Date of Birth

3. Sex

4. Race

5. Length of time in community

6. Reputation in community

F. Any Other Significant Data About Offense

III. A. Plea Entered by Defendant:



Not guilty .....; guilty .....; not criminally responsible ....

B. Mode of Trial:

Court .....Jury ....

If there was a jury trial, did defendant challenge the jury selection or composition? If so, explain.

C. Counsel

1. Name

2. Address

3. Appointed or retained

(If more than one attorney represented defendant, provide data on each and include stage of proceeding at which the representation was furnished.)

D. Pre-Trial Publicity -- Did defendant request a mistrial or a change of venue on the basis of publicity? If so, explain. Attach copies of any motions made and exhibits filed.

E. Was defendant charged with other offenses arising out of the same incident? If so, list charges; state whether they were tried at same proceeding, and give disposition.

IV. Data Concerning Sentencing Proceeding

A. List aggravating circumstance(s) upon which State relied in the pretrial notice.

B. Was the proceeding conducted

before same judge as trial? .....

before same jury? .....

If the sentencing proceeding was conducted before a jury other than the trial jury, did the defendant challenge the selection or composition of the jury? If so, explain.

C. Counsel -- If counsel at sentencing was different from trial counsel, give information requested in III C above.

D. Which aggravating and mitigating circumstances were raised by the evidence?

E. On which aggravating and mitigating circumstances were the jury instructed?



F. Sentence imposed:           Imprisonment for life

Death

Imprisonment for life without the possibility of parole

V. Chronology

Date of Offense

Arrest

Charge

Notification of intention to seek penalty of death

Trial (guilt/innocence) -- began and ended

Post-trial Motions Disposed of

Sentencing Proceeding -- began and ended

Sentence Imposed

VI. Recommendation of Trial Court As To Whether Imposition of Sentence of Death is Justified.

VII. A copy of the Findings and Sentencing Determination made in this action is attached to and made a part of this report.

.....  
Judge

CERTIFICATION

I certify that on the .....day of ....., ....., I sent copies of this

(month) (year)

report to counsel for the parties for comment and have attached any comments made by them to this report.

.....  
Judge

Within five days after receipt of the report, the parties may submit to the judge written comments concerning the factual accuracy of the report. The judge promptly shall file with the clerk of the



trial court and with the Clerk of the Court of Appeals the report in final form, noting any changes made, together with any comments of the parties.